

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JOSEPH R. CHAVEZ,

Plaintiff,

v.

No. Civ. 20-470 RB/KRS

NEW MEXICO DEPARTMENT OF CORRECTIONS, *et al.*,

Defendants.

ORDER TO SHOW CAUSE

THIS MATTER is before the Court upon review of the record. Plaintiff filed a *pro se* Complaint for Armed Assault and Battery in State Court, which was removed to this Court by Defendants on May 15, 2020. (Docs. 1 and 1-1). Plaintiff obtained counsel on May 17, 2021. (Doc. 11). On April 16, 2021, and June 30, 2021, upon initial screening of Plaintiff's Complaint, the presiding judge dismissed Plaintiff's federal claims against some of the Defendants, and determined that all of Plaintiff's state claims, as well as Plaintiff's federal claims against Defendants Mendoza, Fuentes, and Martinez, remain. (Docs. 8 and 13). The Court directed issuance of notice and waiver of service forms on July 21, 2021. (Doc. 14).

Defendants GEO Group, Warden Santistevan, Officer Mendoza, and Officer Martinez, have filed an answer to Plaintiff's Complaint. (Doc. 10). Defendants New Mexico Corrections Department and Department Secretary Alisha Tafoya-Lucero have filed a Motion to Dismiss Plaintiff's claims against them. (Doc. 20). Four Defendants—the State of New Mexico, Lea County Correctional Facility (“LCCF”), Officer Fuentes, and Former LCCF Warden Smith—have not responded to Plaintiff's Complaint. At the direction of the Court, counsel for Plaintiff provided addresses for these remaining Defendants, and the Clerk of the Court issued notice and waiver of service forms to these Defendants on July 21, 2021. (Docs. 12 and 14). On

September 2, 2021, the registered agent for the GEO Group notified the Court that it is not the registered agent for LCCF, Officer Fuentes, or Former LCCF Warden Smith. (Doc. 19). The record does not show that Plaintiff's counsel has made any further attempts to serve these four remaining Defendants.

The Court initially directed issuance of the notice and waiver of service forms on the remaining Defendants because Plaintiff filed his Complaint *pro se* and obtained *in forma pauperis* relief in state court. *See* (Doc. 14). Because Plaintiff is no longer proceeding *pro se*, the Court will now require Plaintiff's counsel to either effectuate service on the remaining Defendants or show cause why these Defendants should not be dismissed for lack of service.

IT IS THEREFORE ORDERED that on or before **December 10, 2021**, Plaintiff shall either effectuate service on the remaining Defendants (the State of New Mexico, Lea County Correctional Facility, Officer Fuentes, and Former LCCF Warden Smith), or shall show cause in writing as to why these Defendants should not be dismissed from this action.



KEVIN R. SWEAZEA
UNITED STATES MAGISTRATE JUDGE